

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

KATHLEEN TROY and NANCY ORR,)
Plaintiffs,)
v.) 2:11cv1509
STATE CORRECTIONAL)
INSTITUTE - PITTSBURGH,)
Defendant.) Electronic Filing

MEMORANDUM ORDER

This action is before the Court on the Report and Recommendation [ECF No. 39] issued by Magistrate Judge Robert C. Mitchell on August 14, 2013. The Magistrate Judge recommended that Defendant's Motion for Summary Judgment be granted in part and denied in part. The Magistrate Judge specifically recommended that "Defendant's Motion for Summary Judgment be granted as to all claims, except as to whether it was retaliatory for Superintendent Lockett to deny Plaintiff Kathleen Troy comp time and assign her additional duties without compensation." Rep. and Rec. [ECF No. 39] at 24. Parties were served with the Report and Recommendation and informed they had until September 3, 2013 to file written objections. On that date, Plaintiffs filed objections [ECF No. 40] to which Defendant did not respond.

Plaintiffs object to the Report and Recommendation on the basis that the Magistrate Judge made errors of fact and law in addressing their claims for discrimination and retaliation. It is noted that Plaintiffs do not make discrete, specific objections, but rather convey their objections in a stream-of-consciousness style. After a *de novo* review of the pleadings and the documents, together with the Report and Recommendation, Plaintiffs' objections do not undermine the recommendation of the Magistrate Judge. Furthermore, Plaintiffs raise arguments for the first time in their objections, and as such, those arguments are waived. *See Bukovinsky v.*

Pennsylvania, 455 Fed.App'x 163, (3d Cir. 2011) (citing *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996) (“Issues raised for the first time in objections to the magistrate judge’s recommendation are deemed waived.”); *In re Consolidated RNC Cases*, 2009 WL 130178, at *10 (S.D.N.Y. Jan. 8, 2009) (“For the district judge to review new evidence or arguments [raised in objections] would reduce the magistrate’s work to something akin to a meaningless dress rehearsal.”) (internal citations and quotations omitted); *Kightlinger v. Pennsylvania*, 2013 WL 4504382, at *2 (W.D.Pa. Aug. 22, 2013) (same). Plaintiff Orr argues here for the first that she was retaliated against for engaging in a protected activity by investigating other employee’s EEO complaints. *See* Obj. [ECF No. 40] at 8. Additionally, Plaintiffs purport to change the course of their harassment claim by arguing that they were subjected to a quid pro quo sexual hostile work environment. *Id.* at 11-12. These newly raised issues are waived. All other objections are overruled as not arbitrary or contrary to law.

Furthermore, Plaintiffs’ objections include ad hominem criticisms of the Magistrate’s Report and Recommendation comprised of unsubstantiated legal analysis. For example, Plaintiffs state: “[T]he Magistrate Judge does the anti-discrimination law a disservice when he ignores its true focus by improperly applying that law[,]” and “[T]he Magistrate Judge misconstrues both the purpose and intent of the anti-discrimination law – protection of those who participate in Title VII proceedings and protection to those who oppose discrimination under Title VII.” *See* Obj. [ECF No. 40] at 12-13. Such attacks are unsupported by the record evidence, add no legal analysis to Plaintiffs’ arguments and are seemingly raised because the Magistrate determined certain legal issues contrary to Plaintiffs. Appropriately, the vindictive claims questioning the Magistrate’s reputation and motive in crafting his recommendation are beyond the analysis of the legal parameter and are accordingly stricken. *See* Federal Rules of

Civil Procedure 7; 11; 12(f). *See also Skil Corp. v. Lucerne Products, Inc.*, 489 F.Supp. 1129, 1133 (D.C.Ohio 1980), *aff'd* 684 F.2d 346 (6th Cir, 1982).

After a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following Order is entered:

AND NOW, this 30¹² day of September, 2013,

IT IS HEREBY ORDERED that the Motion for Summary Judgment filed by Defendant, SCI Pittsburgh [ECF No. 25] is GRANTED IN PART AND DENIED IN PART as recommended by the Magistrate Judge.

IT IS FURTHER ORDERED that the Report and Recommendation [ECF No. 39] dated August 14, 2013 is ADOPTED as the Opinion of the Court.



David Stewart Cercone
United States District Judge

cc: Honorable Robert C. Mitchell,
United States Magistrate Judge
Nicole Amato, Esquire
Vicki Kuftic Horne, Esquire
Robert A. Willig, Esquire
Scott A. Bradley, Esquire